

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(ECF)

MICHAEL SCHILLER, et al.,

: 04 Civ. 7922 (KMK) (JCF)

Plaintiffs,

- against -

THE CITY OF NEW YORK, et al.,

Defendants.

HACER DINLER, et al.,

: 04 Civ. 7921 (KMK) (JCF)

Plaintiffs,

- against -

THE CITY OF NEW YORK, et al.,

Defendants.

TARASIK ABDELL, et al.,
Plaintiffs,

: 05 Civ. 8453 (KMK) (JCF)

- against -

THE CITY OF NEW YORK, et al.,

MEMORANDUM
AND ORDER

Defendants.

JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

These cases concern the arrests of persons protesting in connection with the Republican National Convention (the "RNC") in 2004. The Schiller and Abdell cases arise from arrests near the World Trade Center site on August 31, 2004 during a march organized by the War Resisters League (the "WRL"). The defendants

obtained. Documents reflecting communications between the WRL and the City regarding a permit would reveal nothing about whether the plaintiffs knew that the march in which they participated was not authorized by the City. The WRL and Ms. Berrigan are therefore not required to produce documents reflecting communications with the City regarding a permit for the march.

C. Hedemann Arrest Records

Finally, the City has moved to compel Mr. Hedemann to produce releases to permit the City to obtain his arrest records. The City correctly points out that "documents detailing [Mr. Hedemann's] prior arrest experiences, previous arrest processing, and criminal court proceedings are relevant to refute [his] claims regarding the cause and extent of emotional distress damages attributable to his August 31, 2004 arrest and confinement." (Dougherty 10/6/06 Letter at 2). Whether or not they will ultimately be admissible at trial, Mr. Hedemann's arrest records are relevant to the issue of damages for emotional distress.⁹ See Green v. Baca, 226 F.R.D. 624, 656-57 (C.D. Cal. 2005). Furthermore, if Mr. Hedemann's prior arrests involve disorderly conduct, parading without a permit, or similar charges, the records may lead to information that would cast doubt upon Mr. Hedemann's credibility with respect to his contention that

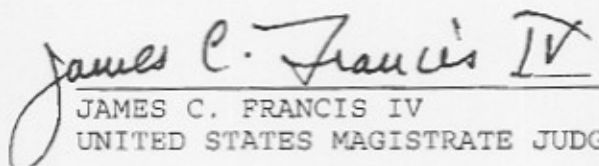
⁹ Assuming that the City is also seeking a release for records related to the 2005 arrest, Mr. Hedemann must provide a release for that arrest as well because subsequent arrests are relevant to damages for ongoing mental and emotional distress.

the NYPD lacked probable cause to arrest him on August 31, 2004. Accordingly, the City's motion to compel Mr. Hedemann to execute releases so that the City may obtain his arrest records is granted.

Conclusion

For the reasons set forth above, the defendants' motions to compel production of WRL documents are granted in part and denied in part. The defendants' motion to compel Mr. Hedemann to execute releases for the unsealing of his arrest records is granted.

SO ORDERED.


JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

Dated: New York, New York
December 7, 2006

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